



DATE: September 20, 2016

TO: Senate Committee on Transportation

FR: Suzanne M. Schulz, AICP
City of Grand Rapids Managing Director of Design, Development, and Engagement

RE: **OPPOSITION TO SB 953 TO AMEND PA 106 HIGHWAY ADVERTISING ACT OF 1972**

The City of Grand Rapids opposes proposed SB 953 as presented. While this amendment is an improvement from an earlier proposal to amend the Zoning Enabling Act, concerns remain. This bill would still make all school property used for a "public school purpose" unzoned property and exempt from zoning when used by a private commercial interest. It provides the billboard industry with extraordinary privileges to preserve sign viewsheds without compensation to the public and allows indiscriminate tree cutting. Finally, there are many questions surrounding proposed provisions regarding permitting vs. erection for non-conforming signs.

Comments on SB 953 Sub

- Page 8: Under "nonconforming sign"...how many permits have been issued where signs were not erected? 2 or 2,000? The public benefit of switching from signs that were *erected to permit applications* is unclear and should be understood prior to changes being adopted.
- Page 9, Part BB: The idea of school governance related particularly to Charter Schools that are not accountable to the public through the school board election process is particularly troublesome given that a non-elected board of a "public school" could acquire properties and place billboards on any lands "used for instructional or non-instructional school purposes" (pg3) adjacent to a highway.
- Page 11, Section 2, Part MM (lines 8-10): This text has improved since the last draft. However, concerns remain regarding allowing commercial activities that are not related to educational purposes on school properties. Similar exemptions are likely to be expected for cell phone towers and other commercial enterprises that would financially benefit the school district at the expense of the quality of life for nearby residents; again, without the opportunity for public input or dialogue with the community (see preceding comment).
- Page 13, Section 3 (lines 12-13): It is not the role of government to insure the "effective display of outdoor advertising". The original intent of the Act was to preserve scenic beauty; this is in direct conflict with that intent. This will result in the cutting of trees and other modifications and/or prohibitions that will have the effect of impeding the air rights of the State of Michigan and private property owners. The result of this provision requires the viewshed of a billboard to be preserved without a required easement or compensation.
- Page 13, Part 3 (line 20): Strike "~~public need~~". This provides greater weight to this use than other legitimate commercial uses and is unnecessary.
- Page 18, Section 6, Part 4 (line 4): This provision is unnecessary; it would allow any digital billboard permit applications that were denied by the department prior to August 2015 to

receive approval. This dismisses any and all legitimate reasons for possible denial of an electronic billboard – which could include distraction of important signals and signs for public safety. Parts (5) and (6) address this sufficiently. If a permit application was previously denied, an application can be resubmitted without penalty.

- Page 20, Section 6, Part 6 (b) (lines 3-4): This allows the industry to count two signs as one (“a 2-sided sign...shall be treated as a single sign...”). It is a “BO-GO” give-away to the sign industry and provides absolutely no public benefit. This provision should be stricken.
- Page 23, Section 11, Part 5 (A and B) (lines 8-13): This is contrary to the original purpose of the Act. This is the extent of nearly 2 city blocks that would allow clearing of trees. If a community has partnered with MDOT on gateway projects to enhance and beautify entries into an area (as is typical in urban centers) this would work counter to those purposes. See comments about page 13 regarding “effective display”.
- Page 33, Section 11, Part 18 (a): The concept of preserving a view-shed for a billboard “from which the billboard face is intended to viewed” (line 6) allows the clear cutting of trees – including in highway medians on the other side of the road. This is not consistent with billboards being related to the side of the highway in which they are located. This is giving away public air rights away to private industry. How does one measure “intended to be viewed”? What is that distance? This is a totally subjective statement and will be impossible to apply from a regulatory standpoint. This will essentially allow indiscriminant clearing within public rights-of-way.
- Page 35, Section 12 (line 14): This provision changes the definition of a non-conforming sign by stating that the mere issuance of a permit gives legal rights to a billboard on a parcel. This is not in accordance with zoning law or practice. The structure needs to exist to be valid. This language causes difficulties not only for local jurisdictions but for property owners themselves, as it provides a billboard company rights to the use of land for the duration of a lease period – which often times extends a decade or more, with automatic renewals, and can impede the development capacity of property.

The Committee is urged to reject SB 953 as proposed.